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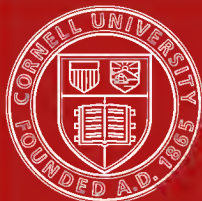
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The new mining regulations for the empir



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THE NEW MINING REGULATIONS

FOR THE EMPIRE OF CHINA



THE NEW MINING REGULATIONS

FOR THE EMPIRE OF CHINA

(SANCTIONED BY IMPERIAL RESCRIPT 17TH MARCH, 1902)

TOGETHER WITH A SHORT CRITICISM ON THEM

AND A PROPOSED NEW MINERAL MINING

LAW FOR THE EMPIRE OF CHINA

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SHANGHAI

THE ORIENTAL PRESS, RUE DU CONSULAT

1902

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INTRODUCTION

When in the early part of this year the Department of Railways and Mines presented a memorial to the throne for alteration of the Mining Regulations then in force, it was thought by many that a strong board would be appointed, which would include some specially chosen foreigners well up in mining law, and that a practical set of rules could be got together which would benefit both state and individual by the opening up of unexploited ground and winning minerals lying therein. Never were we more surprised when, instead of a practical set of Rules which most of us expected, an Imperial Edict dated 17th March, sanctioned the present new regulations, which, should the conditions remain unaltered, will prevent any mineral mining in China on the part of foreigners.

It is not my object to criticise each clause of the regulations, as most of the chief objections are clear to everyone.

The first principles of any mining law should be first, the right of the mine-holders to a title to their property which remains absolutely secure so long as they fulfil certain conditions, altogether within their control and second, the right of the State to certain rent and royalties and to the continuation of work on the mines whereby national capital represented by property and labour is not left unemployed.

A royalty levied on the capital of a company is bad, as mining laws should be framed with the object of inducing discovery of mineral wealth, for no matter how well the geology of the country is understood the mineral riches are merely problematical until actual discovery is made.

The advantage of a fixed royalty on each "claim" over a royalty on the gross product of a mine has been clearly demonstrated in the Transvaal. If royalty on the gross had been imposed there it would never have become such a mining country, on account of the large sums of money which had to be expended before the product on the poor ore was obtained.

The South American Republics, whose mining laws were founded upon laws made by Charles V of Spain, and which imposed royalties on the gross, have during the past few years abolished these royalties and now make charges on each "claim," consequently the acquisition of titles is within the reach of everybody and the mineral wealth is being discovered not only by prospecting parties sent out by corporations, but also by the poor prospector. The benefits to the State are great, for the discovery of mines brings about the growth of towns and taxation of property follows.

For the benefit of those who are unacquainted with the Mining Regulations I give the text in full as officially communicated to the *N.-C. Daily News* and printed in that paper in April, 1902.

The proposed new mineral law includes all minerals with the exception of coal which must be treated separately. For coal a royalty of 5 per cent. on the gross output is practicable and article 7, dealing with the "unit of concession," is unnecessary. A further tax of 10 per cent. on the nett profits, as in minerals, may also be levied with justice.

NEW MINING REGULATIONS.

FOR THE EMPIRE

**As Sanctioned by Imperial Rescript of 17th March, 1902, in reply to
Memorial of Department of Railways and Mines.**

(CORRESPONDING TO THE 8TH DAY, 2ND MOON, 28TH YEAR OF KUANG HSÜ.)

1.—Anyone desirous of undertaking mining operations in the Empire can do so either by obtaining shares from Chinese or by obtaining Loans from Foreigners, but notice must first be made by petition to the Ministry of Foreign Affairs, either presented in person or through the department Magistrate (Chou) or district Magistrate (Hsien) of the locality where said mines are situated, who shall transmit said petition and report the matter to the Viceroy or Governor of their province, and through said Viceroy or Governor bring the same to the notice of the said Ministry of Foreign Affairs. The consent of the said Ministry in the shape of a Rescript on the said Petition must first be obtained before the Petitioner (or Petitioners) shall be allowed to begin operations on said mines.

2.—After the Ministry of Foreign Affairs has gone into the matter referred to in said Petition and shall find that the project is permissible, it will at once communicate with the Head Office of the Department of Railways and Mines, asking that Department whether a favourable Rescript may be granted to the said Petitioner (or Petitioners.) Should the said Ministry receive a reply in the affirmative, it shall then send a dispatch to the said Department asking it to issue a Permit granting permission to the said Petitioner (or Petitioners) to undertake said mining operations; not until this Permit has been handed to the said Petitioner (or Petitioners) will he (or they) be allowed to begin works on said mines. The fee for said Permit shall be at the rate of one per cent. of the capital of the proposed enterprise.

3.—The Person or Persons who have been granted said Permit shall be the same ones to undertake said mining operations. It shall not be lawful for him (or them) to privately sell said Permit to others. If he (or they) desire to sell said Permit, either before or after the operations have been begun, the original Petitioner (or Petitioners) shall, in conjunction with the person or persons who desire to succeed the former, again petition the Ministry of Foreign Affairs in the manner stated above in Regulations 1 and 2. Not until the transfer has been recorded and a new Permit issued in the manner above written shall the rights of operating said mines be transferred to the said purchaser.

4.—Owners of lands in which are situated the alleged mines of course have the privilege of refusing to come to terms. The Petitioner (or Petitioners) must, therefore, first explain matters to said owners and arrange terms as to the price of said lands, after which said terms must be reported to the local authorities to be recorded in the district Yamen. It shall not be allowable for the purchaser (or purchasers) and the vendor (or vendors) to make any private arrangements in the said sale (or sales). If said land (or lands) be considered necessary to the interests of the Imperial Government to be used for mining operations, notwithstanding the owner (or owners) have the privilege of refusal, it should be his (or their) duty to resign this privilege in favour of the Imperial Government and accept a just price for the said landed property at the hands of the officials, and allow the latter to open said mines without let or hindrance.

5.—There shall be no objection against the Petitioner, praying for the privilege of opening a mine, being either a Chinese who desires to develop said mine himself, or a Foreigner wishing to take up the working of a mine, or, again, if the Petition be made on behalf of a joint partnership of Chinese and Foreigners. But it must always be borne in mind that the lands in question belong to China, and that the power of granting permission for the working of any mines rests solely with the Imperial Government. Whoever may have obtained the privilege of working a mine, such person (or persons) must always obey and observe the

mining regulations made by the Imperial Government. Should any troubles arise in regard to a mine, they shall be settled by the Imperial Government, as Sovereign Lord of the Soil.

6.—The duty to be collected from a mine shall depend upon the value of its output. It is decided at present that a duty of five per cent. *ad valorem* shall be charged on all outputs of Coal, Iron, Antimony, Alum and Borax; a charge of ten per cent. *ad valorem* shall be collected on Petroleum, Copper, Lead, Zinc, Sulphur, and Cinnabar; a charge of fifteen per cent. *ad valorem* on Gold, Silver, Galena and Quicksilver; and a charge of twenty-five per cent. *ad valorem* on Diamonds and Crystals. This duty (or tax) shall be designated the “Lo-ti-shui” or ground tax. What other minerals, etc., shall be mined which have not been mentioned in these presents, the duty or tax on such shall be decided in comparison with their relation to the minerals already set down above. The Export Duty on said minerals shall be collected by the Imperial Customs in accordance with the regular tariff in force. After the payment of Export Duty the said minerals shall be exempted from paying any Inland Likin. The monies obtained by the levy of Export Duty by the said Imperial Customs, being a new addition to the revenues of the country, shall be laid aside as a separate item by the Imperial Customs authorities, to be drawn upon and used by the Imperial Government as it may think fit.

7.—Any Company having obtained the necessary Permit to open a mine shall be given a limit of twelve calendar months, counting from the day of the handing over to the said Company of the said Permit, to begin operations on said mine. Should this limit of time pass by without anything having been done to open said mine, the said Permit shall be cancelled, made null and void, and the Head Office of the Department of Railways and Mines shall be at liberty to invite other merchants to take over the development of the said mine. Notices shall also be inserted in Native, as well as Foreign newspapers, to inform the Public that the period allowed for the opening of such and such a mine, situated in such and such a province, having lapsed over, the Permit

granted for the mine in question has therefore been cancelled and annulled in default.

8.—For the convenience of transporting the output of a mine, permission is hereby granted for the construction of a branch railway; but this railway shall be only constructed from the said mine to the nearest port where there is a waterway. Should the said mine be located near a trunk line, then the branch railway shall be allowed to be constructed only so far as to connect with the said trunk line.

9.—A School for the instruction of students in the science of mining must be established in the neighbourhood of a mining Concession, and the expenses of the said Mining School and the salaries of the staff attached thereto shall be paid by the Company working the said Concession.

10.—All machinery and materials, etc., necessary for the working of a mine, imported from foreign countries, will only pay the usual Import duty to the Imperial Maritime Customs; they shall be exempted from any further payment of Likin duty inland. If materials for the use of the said mine be purchased from the Interior, said materials, after due investigation that they are really intended and bound for the said mine has been made, on passing any Customs station or barrier shall be granted a Pass exempting them from the payment of Likin. Other goods shall not be smuggled through with the said materials, and should it be discovered that this regulation has been disobeyed in the manner aforesaid, the culprits concerned will be fined and punished according to law.

11.—When a Company has engaged a Mining Engineer to proceed to various places for the purpose of exploitation, it should be reported to the Ministry of Foreign Affairs, and the said Ministry will then inform the various Viceroys and Governors of the provinces concerned, who shall instruct their subordinates, the local authorities, to exert themselves and give substantial protection (to the said Mining Engineer). The said local authorities shall be held responsible should anything untoward happen (to the said Engineer). If the inhabitants of a locality obstruct and oppose the purchase of any land necessary for the opening of a mine,

or should there arise trouble and disturbances on the part of labourers and artisans, the Company should report the matter to the local authorities, who shall immediately issue a proclamation to the people and take steps to preserve the peace. The said local authorities should all the more consider the importance of strictly prohibiting their yamen subordinates and underlings from practising extortion. Should this be discovered, or suit be brought proving such charges, the local authorities concerned will be severely denounced to the Throne and no leniency will be shown in the matter.

12.—Lands purchased from the inhabitants for the use of a mine should be paid for at current market prices. In the event of the land required being Government property, the said property should be leased to the Mining Company at a rental to be settled by the local officials. Land purchased from the people, although transferred to the ownership of the purchasing Company, shall continue to pay the regular land taxes as originally assessed by the Imperial Government, in order that there may be no loss accruing to the Imperial land revenues. Land required by a Mining Company should be limited by only so much as shall be sufficient for the sinking of shafts and the construction of houses and works thereon. The said Company shall not be permitted to acquire too large an area of land.

13.—In purchasing necessary land the said Mining Company should pay just and equitable prices therefor; there must be no attempts at coercion or forcible encroachments. Owners of land, on the other hand, must refrain from enhancing the price of their property nor will they be permitted to raise the superficial value thereof. They are also forbidden to put forward such excuses as “interfering with the ‘Fêngshui’ ” for the purpose of obstruction. Should the land vendor prefer to receive in lieu of the purchase money for his property the equivalent in shares in the said Mining Company he shall be permitted to have his share script at par value.

14.—In exploiting for minerals holes must be bored or shafts sunk. Should it so happen that the land where a

boring must be made or shaft sunk, contain houses, graves or tombs, attempt should be made to try and avoid interfering with them if possible. If it should prove that such a course is impossible, the said Company should endeavour to come to terms with the owner of the land and pay to him a good price to remove the said graves, etc.

15.—If it should prove necessary to raise a Police force for the protection of the works at a mine, the members of said force shall be composed of Chinese, and the expenses for drilling and instructing said Police together with their salaries and wages shall be borne by the Mining Company itself. With the exception of the Engineer-in-charge of the machinery at the works and the general Accountant, who must be foreigners, the rest of the staff and the labourers and artisans employed at the said mine should be Chinese, as far as possible. The said Company shall pay them a good rate of wages. Should the walls of a mine collapse and crush to death employees at work on the spot it shall be the duty of the said Company to grant relief on a munificent scale.

16.—Chinese students who have studied in mining schools abroad and completed their studies there, if returning to China to become Mining Engineers, or should Chinese merchants in foreign countries desire to return and open mines, they shall be at liberty to report themselves to the Ministry of Foreign Affairs. If the said returned students while prospecting for minerals in the country discover deposits that should really prove rich and in large quantities, after the said deposits have been duly developed the Ministry of Foreign Affairs will recommend the said students to the Throne for appropriate rewards as an encouragement for others.

17.—The Imperial Government accepts responsibility in giving due protection to the various Chinese and Foreign shareholders of a Mining Company, but the Imperial Government cannot be held responsible for any financial losses that may be suffered by the said Company. Should a Company not have sufficient capital to work its concession any loan made from foreign sources by the merchants concerned must be repaid by the merchants themselves; it will be no concern of the Imperial Government.

18.—After the opening of a mine, accounts shall be made up at the end of each year. If after due provision has been made in the matter of repayment of capital and the payment of interest there should be any surplus remaining, twenty-five per cent. thereof shall be paid to the Imperial Government as a Royalty.

19.—Mines already opened and mines that have already received sanction to be opened previous to the drawing up of the above regulations shall be permitted to work in accordance with their original articles of agreement except as regards Regulation 6 of these presents, as a mark of good faith. Hereafter Chinese or Foreign merchants desiring to work mining concessions must observe the new regulations as set down in these presents. Should anything occur that may not have been provided for in these regulations due additions or erasions will be made in order to best suit the condition of things.

Imperial Rescript:—"Let it be as recommended."

PROPOSED NEW MINERAL LAWS

[The word "Mineral" shall mean all valuable deposits of Gold, Silver, Platinum, Iridium, Mercury, Lead, Copper, Iron, Tin, Zinc, Nickel, Aluminium, Antimony, Arsenic, Barium, Bismuth, Bromine, Boron, Cadmium, Chromium, Cobalt, Iodine, Magnesium, Manganese, Molybdenum, Phosphorus, Plumbago, Potassium, Sodium, Strontium, Sulphur, or any combination of the aforesaid elements (with themselves or with other elements), Asbestos, Emery, Mica and mineral pigments.]

Article 1.—Anyone desirous of undertaking Mining operations in China, either for himself or for a company with Chinese capital or Foreign capital or Chinese and Foreign capital combined, may do so by making a written application to the Department of Mines, giving full details of locality.

Article 2.—The application for the mining claim shall be made to the Bureau of Mines in which province the mine is situated, the Bureau of Mines will hand said application to the Viceroy or Governor of the Province and it shall serve as a summons to all whose rights may be affected to protest against the granting of the application, and a time limit of four months is allowed during which such opposition may be presented. The Viceroy or Governor finding no opposition will then sign an agreement, which will be sent to the Capital at Peking for countersignature and as a record.

Article 3.—The sole recognized reasons for such oppositions are as follows:—

(a)—The owner of surface rights may oppose the grant and show general grounds.

(b)—The owner of adjacent claims may oppose on the ground of invasion or trespass.

(c)—The owner of prior rights may oppose on the ground of his prior claim.

Article 4.—Immediately an application has been filed and handed to the Provincial Bureau of Mines, the said

Department will hand to the applicant a provisional certificate, which will serve as a guarantee of good faith. This guarantee will clearly state that no other party or parties have the rights to apply for the said claim, and provided that no objections are raised and upheld to the granting of said claim during four months, at the end of that period a lease will be given to the applicant on his presenting the certificate.

Article 5.—The parties filing the opposition must send their documents of opposition to the Provincial Bureau of Mines, which bureau will forward same to the Governor of the Province, who will determine the case upon its merits according to ordinary procedure.

Article 6.—As soon as the Governor of the Province and the head of the Department of Mines at Peking have granted and signed a mining lease, the said legally acquired mining property shall be irrevocable and perpetual, subject only to the payment of the yearly tax.

Article 7.—The unit of concession on a mining claim shall be a solid block of unlimited depth, defined above ground by that part of the surface which in horizontal projection gives a square with side 220 yards; long bounded underground by the four vertical planes corresponding to the said square. The area of a claim is therefore ten acres. Fractions of a claim do not pay tax; when equal to one half or over one half the tax must be paid as if it is a full claim.

Article 8.—The royalties or property taxes shall be as follows:—First, a stamp to be affixed on the mine title deeds of each claim; such stamp shall be of the value of \$25 (mexican), and second, a yearly rental or tax of \$1,000 (mexican currency) for each mining claim of ten acres.

Article 9.—As the opening up and utilising of mines is for the public benefit, the owner of surface rights is called upon to come to an agreement with the owner of the mining rights; in case of non-agreement, forcible expropriation of the ground necessary to the mine owner can be proceeded with.

Article 10.—A mining concession shall always be granted to the first applicant and shall cover such a number of mining claims as the interested party may ask for.

Article 11.—Anyone desiring to proceed to various places for the exploitation of minerals can do so by applying to the Department of Mines for a “prospector’s license,” which will be issued for \$100 (Mexican) and hold good for a year, this license will call upon various Viceroys or Governors, and their subordinates, the local authorities, to give the prospector substantial protection ; should anything untoward happen to the said prospector the Viceroy or Governor is to be held personally responsible.

Article 12.—As soon as an application for mining rights has been granted and title deeds signed and handed to the applicant, the local Bureau of Mines shall send one of its mining engineers to the locality of the said claim or claims, and the said agent shall, in conjunction with the owner or the owner’s representative, make an accurate survey of the mining concession. The expenses of the mining engineer shall be borne by the mine owner and the tariff of fees shall be on a moderate scale.

Article 13.—A further royalty of 10 per cent. will be imposed on the nett profits of a mine.

E. LENOX SIMPSON

